

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER PENDING "REFERENCE" APPLICATIONS**

**Docket Number:**  
**FXH1011US**

In re Application of: Himanshu Patel et al.

Application No.: 10/027,418

Filed: December 19, 2001

For: METHODS AND DEVICES FOR REMOVING MATERIAL FROM A BODY LUMEN

The owner\*, Fox Hollow Technologies, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patents granted on the instant application which would extend beyond the expiration date of the full statutory term of any patents granted on pending **reference** Application Numbers 10/288,581, filed on November 4, 2002, and 10/421,979, filed on April 22, 2003, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patents granted on said **reference** applications may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference applications. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the **reference** applications are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said reference applications, "as the term of any patent granted on said **reference** applications may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application," in the event that: any such patent: granted on the pending **reference** applications: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 33,984

/Patrick J. O'Connell/                      March 2, 2010  
Signature    Date

Patrick J. O'Connell  
Typed or printed name

(651) 330-4780  
Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

\* Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.